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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/219,946 12/23/98 ELLARD

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EXAMINER

QM02/0110

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ART UNIT

PAPER NUMBER

3753

DATE MAILED:

01/10/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/219,946

Applicant(s)
Ellard et al.

Examiner
STEPHEN M. HEPERLE

Group Art Unit
3753



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-39 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 35-39 is/are allowed.

☒ Claim(s) 1, 2, 5-15, 17-19, and 25-27 is/are rejected.

☒ Claim(s) 3, 4, 16, 20-24, and 28-34 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3753

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flow rate measurement location of claim 2 (on the influent) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 5-12 are rejected under 35 U.S.C. 102 (b) as being anticipated by Oxford or Schuk et al. Oxford shows a dose control apparatus where the main flow is measured at detector 14, and chemical concentration properties are measured before (sensor 24) and after (sensor 31) the addition of chemicals. Regarding claim 11, the recited interval of "a fraction of a second" is seen as substantially continuously. Schuk shows a similar system with a flow meter 1, and chemical property analyzers 2, 4, 5 both before and after chemicals are added.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3753

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oxford or Schuk in view of Myers et al. Myers shows a mixing system where the flow rate is measured in the effluent line. It would have been obvious to measure either the inlet or the outlet (as shown by Meyers) of the system, as a matter of convenience as the two arrangements are full functional equivalents.

Claims 13-15, 17-19, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oxford or Schuk et al. The patents to Oxford and Schuk disclose all the claimed features with the exception of using the specific chemicals. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the Oxford or Schuk devices to mix any chemicals known in the prior art to be mixed by a remotely similar process. It is the examiner's understanding that it is known to mix the various chemicals recited, but that the process by which the known mixing is done is believed to be new by the applicants.

Claims 4, 16, 20-24, and 28-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3753

Claims 35-39 are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Norman shows a device similar to Schuk and Oxford. Waugh is similar to Myers et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner S. Hepperle whose telephone number is (703) 308-1051.

SMH

January 7, 2000



STEPHEN M. HEPPERLE
PRIMARY EXAMINER
ART UNIT 347 3753